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**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

**DUSTIN GOMEZ**, individually and on behalf  
of all others similarly situated,

Plaintiff

-against-

**CALIFORNIA BUSINESS BUREAU, INC.**  
and **JOHN DOES 1-25**,

Defendants

Civil Case No.:

**CIVIL ACTION**

**CLASS ACTION COMPLAINT  
and  
JURY TRIAL DEMAND**

1 Plaintiff, DUSTIN GOMEZ (hereinafter, “Plaintiff”), a California resident,  
2 brings this Class Action Complaint by and through her undersigned counsel,  
3 against Defendant **CALIFORNIA BUSINESS BUREAU, INC.** (hereinafter  
4 “Defendant”) and JOHN DOES 1-25, individually and on behalf of a class of all  
5 others similarly situated, pursuant to Rule 23 of the Federal Rules of Civil  
6 Procedure, based upon information and belief of Plaintiff’s counsel, except for  
7 allegations specifically pertaining to Plaintiff, which are based upon Plaintiff’s  
8 personal knowledge.  
9

### 10 **INTRODUCTION/PRELIMINARY STATEMENT**

11  
12 1. Congress enacted the FDCPA in 1977 in response to the “abundant  
13 evidence of the use of abusive, deceptive, and unfair debt collection practices by  
14 many debt collectors.” 15 U.S.C. § 1692(a). At that time, Congress was concerned  
15 that “abusive debt collection practices contribute to the number of personal  
16 bankruptcies, to material instability, to the loss of jobs, and to invasions of  
17 individual privacy.” *Id.* Congress concluded that “existing laws . . . [we]re  
18 inadequate to protect consumers,” and that “the effective collection of debts” does  
19 not require “misrepresentation or other abusive debt collection practices.” 15  
20 U.S.C. §§ 1692(b) & (c).  
21

22 2. Congress explained that the purpose of the Act was not only to  
23 eliminate abusive debt collection practices, but also to “insure that those debt  
24 collectors who refrain from using abusive debt collection practices are not  
25 competitively disadvantaged.” *Id.* § 1692(e). After determining that the existing  
26 consumer protection laws were inadequate, *id.* § 1692(b), Congress gave  
27 consumers a private cause of action against debt collectors who fail to comply with  
28 the Act. *Id.* § 1692k.

1                                   **JURISDICTION AND VENUE**

2           3.     The Court has jurisdiction over this class action under 28 U.S.C. §  
3 1331, 15 U.S.C. § 1692 *et seq.* and 28 U.S.C. § 2201. If applicable, the Court also  
4 has pendent jurisdiction over the state law claims in this action pursuant to 28  
5 U.S.C. § 1367(a).

6           4.     Venue is proper in this judicial district pursuant to 28 U.S.C. §  
7 1391(b)(2).

8  
9                                   **NATURE OF THE ACTION**

10          5.     Plaintiff brings this class action on behalf of a class of California  
11 consumers under § 1692 *et seq.* of Title 15 of the United States Code, commonly  
12 referred to as the Fair Debt Collections Practices Act (“FDCPA”), and the  
13 Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788 *et seq.*

14          6.     Plaintiff is seeking damages, and declaratory and injunctive relief.  
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17                                   **PARTIES**

18          7.     Plaintiff is a natural person and a resident of the City of Azusa, State  
19 of California, and is a “Consumer” as defined by 15 U.S.C. §1692(a)(3).

20          8.     Defendant is a collection agency with its principal office located at  
21 1711 South Mountain Avenue, Monrovia, California 91016.

22          9.     Upon information and belief, Defendant is a company that uses the  
23 mail, telephone, and facsimile and regularly engages in business the principal  
24 purpose of which is to attempt to collect debts alleged to be due another.

25          10.    Defendant is a “debt collector,” as defined under the FDCPA under 15  
26 U.S.C. § 1692a(6).  
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1 11. John Does 1-25, are fictitious names of individuals and businesses  
2 alleged for the purpose of substituting names of Defendants whose identities will  
3 be disclosed in discovery and should be made parties to this action.  
4

5 **CLASS ALLEGATIONS**

6 12. Plaintiffs bring this claim on behalf of the following class, pursuant to  
7 Fed. R. Civ. P. 23(a) and 23(b)(3):  
8

9 Class A consists of (a) all individuals with addresses in the State of  
10 California (b) to whom Defendant (c) sent an collection letter attempting to  
11 collect a consumer debt owed to Foothill Presbyterian Hospital (d) in which  
12 interest, late fees, or other charges were accruing on the alleged debt (e) and  
13 which the Defendant failed to notify that interest, late fees, and/or other  
14 charges were accruing (f) which letter was sent on or after a date one year  
15 prior to the filing of this action and on or before a date 21 days after the filing  
16 of this action.

17 Class B consists of (a) all individuals with addresses in the State of  
18 California (b) to whom Defendant (c) sent an collection letter attempting to  
19 collect a consumer debt owed to Foothill Presbyterian Hospital (d) in which  
20 the Defendant was charging a \$5.00 fee for paying with a credit card or debit  
21 card (e) and which such a fee was not expressly authorized by the agreement  
22 creating the debt or permitted by law (f) which letter was sent on or after a  
23 date one year prior to the filing of this action and on or before a date 21 days  
24 after the filing of this action.

25 13. The identities of all class members are readily ascertainable from the  
26 records of Defendants and those companies and entities on whose behalf they  
27 attempt to collect and/or have purchased debts.  
28

1           14. Excluded from the Plaintiff Classes are the Defendants and all  
2 officers, members, partners, managers, directors, and employees of the Defendants  
3 and their respective immediate families, and legal counsel for all parties to this  
4 action and all members of their immediate families.

5           15. There are questions of law and fact common to the Plaintiff Classes,  
6 which common issues predominate over any issues involving only individual class  
7 members. The principal issue is whether the Defendants' written communications  
8 to consumers, in the forms attached as *Exhibits A*, violate 15 U.S.C. §§ 1692e and  
9 1692f.

10           16. The Plaintiffs' claims are typical of the class members, as all are based  
11 upon the same facts and legal theories.

12           17. The Plaintiffs will fairly and adequately protect the interests of the  
13 Plaintiff Classes defined in this complaint. The Plaintiffs have retained counsel  
14 with experience in handling consumer lawsuits, complex legal issues, and class  
15 actions, and neither the Plaintiffs nor their attorneys have any interests, which  
16 might cause them not to vigorously pursue this action.

17           18. This action has been brought, and may properly be maintained, as a  
18 class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil  
19 Procedure because there is a well-defined community interest in the litigation:  
20

21           (a) **Numerosity:** The Plaintiffs are informed and believe, and on  
22 that basis allege, that the Plaintiff Classes defined above are so numerous  
23 that joinder of all members would be impractical.

24           (b) **Common Questions Predominate:** Common questions of law  
25 and fact exist as to all members of the Plaintiff Classes and those questions  
26 predominate over any questions or issues involving only individual class  
27 members. The principal issue is whether the Defendants' written  
28

1 communications to consumers, in the forms attached as ***Exhibit A***, violate  
2 15 U.S.C. §§ 1692e and 1692f.

3 (c) **Typicality:** The Plaintiffs' claims are typical of the claims of  
4 the class members. The Plaintiffs and all members of the Plaintiff Classes  
5 have claims arising out of the Defendants' common uniform course of  
6 conduct complained of herein.

7 (d) **Adequacy:** The Plaintiffs will fairly and adequately protect the  
8 interests of the class members insofar as Plaintiffs have no interests that are  
9 adverse to the absent class members. The Plaintiffs are committed to  
10 vigorously litigating this matter. Plaintiffs have also retained counsel  
11 experienced in handling consumer lawsuits, complex legal issues, and class  
12 actions. Neither the Plaintiffs nor their counsel have any interests which  
13 might cause them not to vigorously pursue the instant class action lawsuit.  
14

15 (e) **Superiority:** A class action is superior to the other available  
16 means for the fair and efficient adjudication of this controversy because  
17 individual joinder of all members would be impracticable. Class action  
18 treatment will permit a large number of similarly situated persons to  
19 prosecute their common claims in a single forum efficiently and without  
20 unnecessary duplication of effort and expense that individual actions would  
21 engender.

22 19. Certification of a class under Rule 23(b)(3) of the Federal Rules of  
23 Civil Procedure is also appropriate in that the questions of law and fact common to  
24 members of the Plaintiff Classes predominate over any questions affecting an  
25 individual member, and a class action is superior to other available methods for the  
26 fair and efficient adjudication of the controversy.  
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1           20. Depending on the outcome of further investigation and discovery,  
2 Plaintiffs may, at the time of class certification motion, seek to certify a class(es)  
3 only as to particular issues pursuant to Fed. R. Civ. P. 23(c)(4).  
4

5                                   **ALLEGATIONS OF FACT**

6           21. Plaintiff repeats, reiterates and incorporates the allegations contained  
7 in paragraphs numbered above herein with the same force and effect as if the same  
8 were set forth at length herein.  
9

10          22. Some time prior to May 20, 2016, an obligation was allegedly incurred  
11 to Foothill Presbyterian Hospital.

12          23. The Foothill Presbyterian Hospital obligation arose out of a  
13 transaction in which money, property, insurance or services, which are the subject  
14 of the transaction, are primarily for personal, family or household purposes.

15          24. The alleged Foothill Presbyterian Hospital obligation is a "debt" as  
16 defined by 15 U.S.C. § 1692a(5).

17          25. Foothill Presbyterian Hospital is a "creditor" as defined by 15 U.S.C. §  
18 1692a(4).

19          26. Foothill Presbyterian Hospital or subsequent owner of the Foothill  
20 Presbyterian Hospital debt contracted the Defendant to collect the alleged debt.

21          27. Defendant collects and attempts to collect debts incurred or alleged to  
22 have been incurred for personal, family or household purposes on behalf of  
23 creditors using the United States Postal Services, telephone and internet.

24          28. On or about May 20, 2016, Defendant sent to the Plaintiff a collection  
25 letter (the "Letter") regarding the alleged debt owed to Foothill Presbyterian  
26 Hospital. *See Exhibit A.*

27          29. Plaintiff received the Letter sometime after May 20, 2016 and read it.

28          30. The Letter states in part:

1 “TOTAL DUE: \$2,029.64”

2 31. The Plaintiff, as would any least sophisticated consumer, understood  
3 the Letter to mean that the balance sought by the Defendant was static and that  
4 payment of the amount listed in the Letter would satisfy the debt irrespective of  
5 when the payment was remitted.

6 32. Upon information and belief, interest, late fees, and/or other charges  
7 were accruing on the total amount due daily, a fact which was not noted in the  
8 Letter.

9 33. Upon information and belief, the amount due as of the date the  
10 Plaintiff received the Letter was more than \$2,029.64.

11 34. Upon information and belief, if the Plaintiff was to have paid  
12 \$2,029.64 when he received the Letter, he would not have satisfied the alleged debt.

13 35. The Letter fails to notify the Plaintiff of his right to obtain an exact,  
14 up to date amount of the debt allegedly due.

15 36. The case of *Miller v. McCalla, Raymer, Patrick, Cobb, Nichols &*  
16 *Clark, LLC*, 214 F.3d 872 (7<sup>th</sup> Cir. 2000), sets forth a duty for debt collector to  
17 notify consumers that the amount of the debt would be changing “in cases like this  
18 were the amount varies from day to day.” *Id* at 876. The Second Circuit has recently  
19 adopted this holding as well. *See, Avila v. Riexinger & Associates, LLC*, 817 F.3d  
20 72, 76 (2d Cir. 2016).

21 37. The FDCPA gives consumers a statutory right to receive certain  
22 information which the Plaintiff was deprived of in this case.

23 38. As a result of the Defendant’s violations of the FDCPA, the Plaintiff  
24 was harmed.

25 39. By failing to notify the Plaintiff of an accurate up to date amount  
26 owed, the Defendant created a real risk of harm.

27 40. The Letter further stated:  
28



1 “IF PAYING BY CREDIT OR DEBT CARD, A \$5.00 FEE MAY  
2 APPLY . . .”

3 41. Upon information and belief, the Defendant had no legal right to  
4 charge a \$5.00 fee.

5 42. Upon information and belief, the underlying contract creating this debt  
6 did not expressly authorize the Defendant to charge this \$5.00 fee.

7 43. Defendant’s actions as described herein are part of a pattern and  
8 practice used to collect consumer debts.

9  
10 **COUNT I**  
11 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
12 **15 U.S.C. §1692e *et seq.***

13 44. Plaintiff, individually and on behalf of all others similarly situated,  
14 repeats, reiterates and incorporates the allegations contained in paragraphs above  
15 herein with the same force and effect as if the same were set forth at length herein.

16 45. Defendant’s debt collection efforts attempted and/or directed towards  
17 the Plaintiff violated various provisions of the FDCPA, including but not limited  
18 to 15 U.S.C. § 1692e.

19 46. Pursuant to 15 U.S.C. §1692e, a debt collector is prohibited from  
20 using any false, deceptive or misleading representations in connection with the  
21 collection of a debt:

22 47. The Defendant violated said section by:

- 23 a. Using false, deceptive, and/or misleading representations in stating an  
24 incorrect amount due at the time of receipt of the May 20, 2016 letter,  
25 and not clarifying that such amount was subject to increase due to  
26 accrual of interest;  
27 b. Falsely representing the amount of the debt in violation of 1692e(2);  
28

1 c. Falsely representing that they were entitled to charge an amount, a  
2 \$5.00 fee, that they were not legally allowed to charge in violation of  
3 1692e(5);

4 d. Using a false representation or deceptive means to collect a debt in  
5 violation of 1692e(10).

6 48. By reason thereof, Defendant is liable to Plaintiff for judgment that  
7 Defendant's conduct violated Section 1692e *et seq.* of the FDCPA, actual damages,  
8 statutory damages, costs and attorneys' fees.  
9

10 **COUNT II**  
11 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
12 **15 U.S.C. §1692f *et seq.***

13 49. Plaintiff, individually and on behalf of all others similarly situated,  
14 repeats, reiterates and incorporates the allegations contained in paragraphs above  
15 herein with the same force and effect as if the same were set forth at length herein.

16 50. Defendant's debt collection efforts attempted and/or directed towards  
17 the Plaintiff violated various provisions of the FDCPA, including but not limited  
18 to 15 U.S.C. § 1692f.

19 51. Pursuant to 15 U.S.C. §1692f(1), a debt collector is prohibited from  
20 charging any amount, unless such amount is permitted by law or expressly  
21 authorized by the agreement creating the debt.

22 52. The Defendant violated said section by attempting to charge a \$5.00  
23 fee not permitted by law or expressly authorized by the agreement creating the debt.

24 53. By reason thereof, Defendant is liable to Plaintiff for judgment that  
25 Defendant's conduct violated Section 1692f *et seq.* of the FDCPA, actual damages,  
26 statutory damages, costs and attorneys' fees.  
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**COUNT III**  
**VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION**  
**PRACTICES ACT**  
**Cal. Civ. Code § 1788 *et seq.***

54. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs above herein with the same force and effect as if the same were set forth at length herein.

55. Cal. Civ. Code §1788.17 mandates that every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code statutory regulations contained within the FDCPA, 15 U.S.C. 1692 *et seq.*

56. Based upon the foregoing, Defendant's conduct violated the RFDCPA in multiple ways, including but not limited to:

a) Using false, deceptive, and/or misleading representations in connection with the collection of a debt.

b) Charging an amount that they were not legally entitled to charge.

57. Plaintiff alleges that to the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

58. As a direct and proximate result of Defendant's violations of RFDCPA, Plaintiff and the members of The Class have suffered injury, and may recover from Defendant one thousand dollars (\$1,000.00) in statutory damages in addition to actual damages and reasonable attorneys' fees and costs pursuant to Cal. Civ. Code § 1788.30.

59. The violations of RFDCPA described herein present a continuing threat to members of The Class and members of the general public in that Plaintiff is informed and believes and thereon alleges that Defendant continues to engage in these practices, and will not cease doing so unless and until forced to do so by this

1 Court.

2  
3 **PRAYER FOR RELIEF**

4 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

5 (a) Declaring that this action is properly maintainable as a Class  
6 Action and certifying Plaintiff as Class representative, and Plaintiff's  
7 counsel as Class Counsel;

8 (b) Awarding Plaintiff and the Class statutory damages;

9 (c) Awarding Plaintiff and the Class actual damages;

10 (d) Awarding Plaintiff costs of this Action, including reasonable  
11 attorneys' fees and expenses;

12 (e) Awarding pre-judgment interest and post-judgment interest;  
13 and  
14

15 (f) Awarding Plaintiff and the Class such other and further relief  
16 as this Court may deem just and proper.

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**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

Dated: May 18, 2017

*/s/ Tammy Gruder Hussin*

Tammy Gruder Hussin

(Bar No. 155290)

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